UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Norman Smith

Case No. 10-81240
Chapter   13

Social Security No. xxx-xx-7739
Address:1203 Park Avenue, Durham, NC 27701-

Debtor

MOTION TO MODIFY PLAN

NOW COMES the Debtor, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1.   This case was filed on April 12, 2010, with the Chapter 13 plan being subsequently confirmed on October 8, 2010.

2.   The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:

From: $1,223.00 per month.

To: $1,223.00 per month through March 2011, followed thereafter by $1,664.00 per month, starting in June 2011.

3.   The changed circumstances that justify the proposed modification are as follows:

a.   The Debtor was unsuccessful in his attempt to avoid the mortgage held by Citimortgage.

b.   Accordingly, this modification will treat   Citimortgage as a long-term non-dischargeable claim, curing any arrearage.

c.   This modification will also adjust the treatment of the claim of the IRS, which was allowed as secured based on the absence of any liens on the real property. With the lien of Citimortgage being allowed, the secured claim of the IRS should instead be for $17733.32.

d.   The Debtor was hospitalized for nearly three weeks.

4.   The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as

detailed on the attached Chapter 13 Worksheet:

a.   Filed and allowed claims different from schedules.

Appended Application for an Additional Attorney Fee

5.   Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of $250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtor prays that this Court grant his Motion, and modify the Chapter 13 plan accordingly.   In addition, counsel undersigned requests that this Court approve a fee in the amount of $250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: April 6, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz
Edward Boltz
North Carolina State Bar No.: 23003
6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

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CERTIFICATE OF SERVICE

I, Patty Cherigo, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on April 6, 2011 , I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
Michael West
U.S. Bankruptcy Administrator

Norman Smith
1203 Park Avenue,
Durham, NC 27701-

All creditors   at the addresses listed thereon.

/s Patty Cherigo
Patty Cherigo

CH. 13 PLAN - DEBTS SHEET
(MIDDLE DISTRICT - DESARDI VERSION)

Date:	4/4/11
Lastname-SS#:	smith-7739 MTM

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

	Creditor Name	Sch D #	Description of Collateral
Retain			

SURRENDER COLLATERAL

Creditor Name	Description of Collateral

ARREARAGE CLAIMS

	Creditor Name	Sch D #	Arrearage Amount	(See †)
Retain				**
				**
				**
				**
				**
	Citimortgage		$9,337	**
			$4,126	**
				**
				**

REJECTED EXECUTORY CONTRACTS/LEASES

Creditor Name	Description of Collateral

LTD - DOT ON PRINCIPAL RESIDENCE & OTHER LONG TERM DEBTS

	Creditor Name	Sch D #	Monthly Contract Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Retain	Citimortgage		$567	N/A	n/a	$567.00	House & Land
				N/A	n/a		
				N/A	n/a		
				N/A	n/a		

STD - SECURED DEBTS @ FMV

	Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Retain				5.00			
				5.00			
				5.00			
				5.00			

STD - SECURED DEBTS @ 100%

	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Retain				5.00			
				5.00			
				5.00			
				5.00			
				5.00			

ATTORNEY FEE (Unpaid part)

	Amount
Law Offices of John T. Orcutt, P.C.	$1,849

SECURED TAXES

	Secured Amt
IRS Tax Liens	$14,901
Real Property Taxes on Retained Realty	$2,483

UNSECURED PRIORITY DEBTS

	Amount
IRS Taxes	$25,183
State Taxes	
Personal Property Taxes	
Alimony or Child Support Arrearage	

CO-SIGN PROTECT (Pay 100%)

	Int.%	Payoff Amt
All Co-Sign Protect Debts (See*)		

GENERAL NON-PRIORITY UNSECURED

	Amount
DMI= None($0)	None($0)

PROPOSED CHAPTER 13 PLAN PAYMENT

$ **$1,664** per month for **60** months, then

$ N/A per month for N/A months.

Adequate Protection Payment Period: **1.29** months.

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Monthly 'Adequate Protection' payment amt.

† = May include up to 2 post-petition payments.

* Co-sign protect on all debts so designated on the filed schedules.

** = Greater of DMI x ACP or EAE   (Page 4 of 4)

Ch13Plan_MD_(DeSardi Version 1/12/10) © LOJTO

Other Miscellaneous Provisions

Plan to allow for 3 "waivers".